

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water and wastewater rates in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties by Utilities, Inc. of Florida.

DOCKET NO. 160101-WS

FILED: March 24, 2017

MOTION TO ENLARGE DISCOVERY LIMITS ESTABLISHED BY THE ORDER ESTABLISHING PROCEDURE

The Citizens of the State of Florida (Citizens), by and through the Office of Public Counsel (OPC), pursuant to Rule 28-106.204, Florida Administrative Code (F.A.C.), hereby file this Motion to Adjust Controlling Dates and Extend Testimony Filing Deadlines established by Order No. PSC-16-0558-PCO-WS (OEP), issued December 14, 2016, subsequently modified by Order No. PSC-16-0578-PCO-WS, issued December 20, 2016, and Order PSC-17-0032-PCO-WS, issued January 24, 2017. The Citizens ask that this Motion be granted for good cause, and as grounds state the following:

1. Utilities, Inc. of Florida (UIF or Company) serves approximately 33,000 water and 26,000 wastewater customers in 10 counties across the state. In early 2016, UIF consolidated 12 separate operating companies and numerous standalone systems into one combined company named UIF. On April 28, 2016, UIF filed its test year approval request.
2. On August 31, 2016, UIF filed its application for increase in rates and accompanying minimum filing requirement (MFR) documents in support of its rate increase and state-wide uniform rates.
3. On September 16, 2016, OPC served its First Set of Discovery to UIF consisting of interrogatories and requests for production. On March 17, 2017, OPC served its Eleventh Set of Discovery consisting of interrogatories and requests for production. The Discovery Deadline is currently April 19, 2017, and UIF is expected to serve rebuttal testimony on April 3, 2017.

4. According to the OEP, unless subsequently modified by the Prehearing Officer, interrogatories, including subparts, shall be limited to 500. OEP at 4.

5. This is a large, complicated case, involving 36 separate non-interconnected water and wastewater plants permitted by the Department of Environmental Protection in 10 different counties. There are 12 separate accounting systems related to these plants which further complicates this matter. Due to (1) the large, complex nature of this consolidated rate case, involving these numerous water and wastewater systems; (2) UIF's MFRs being severely deficient, and requiring almost three months to cure; and (3) the number of incomplete or insufficient discovery responses from UIF, OPC was required to serve numerous interrogatories and follow up interrogatories, including follow up interrogatories on UIF's responses to OPC's First Request for Admission.¹ For these reasons, OPC has nearly reached its limit of 500 interrogatories.

6. According to OPC's count, OPC has served UIF 491 interrogatories including subparts. According to UIF, OPC has exceeded the 500 interrogatory limit established by the OEP.

7. Therefore, OPC respectfully requests the number of interrogatories be enlarged from 500 to 750. In support of this request, OPC states the following:

¹ UIF denied a number of OPC's Requests for Admission without any explanation for the denial. OPC and UIF disagree over the interpretation of the Admission Rule when a denial is made. Florida Rules of Civil Procedure Rule 1.370(a) states in pertinent part:

The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify an answer or deny only a part of the matter of which an admission is requested, the party shall specify so much of it as is true and qualify or deny the remainder. . . .

OPC asserts the Rule clearly requires a specific explanation for each denial; UIF believes that interrogatories should accompany Requests for Admission if a party wants to know specific explanations for each denial. Instead of engaging in additional motion practice and increasing rate case expense to determine the correct interpretation of the Admissions Rule, OPC served UIF additional interrogatories, seeking an explanation for its responses to OPC's First Request for Admission.

8. OPC asserts that 250 additional interrogatories would ensure that the customers' due process interests are adequately served for the reasons stated above.

9. Although OPC has the right to depose UIF witnesses, OPC submits that serving UIF interrogatories is a more efficient, cost-effective (lower rate case expense) alternative than engaging in potentially costly and unnecessary depositions. While an enlargement of interrogatories may incrementally increase rate case expense, the increase would be substantially less than numerous day-long depositions to obtain the same information.

10. Pursuant to Rule 28-106.204(3), F.A.C., counsel for OPC has contacted counsel for Commission staff and UIF regarding this motion. Commission staff do not take a position on the motion. UIF opposes this Motion.

WHEREFORE, the Citizens hereby respectfully requests that the Prehearing Officer grant this Motion to Enlarge Discovery Limits Established by the Order Establishing Procedure as described herein.

Respectfully submitted 24th day of March, 2017.

J. R. Kelly
Public Counsel

/s/ Erik L. Sayler
Erik L. Sayler
Associate Public Counsel
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400

Attorneys for the Citizens
of the State of Florida

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and foregoing MOTION TO ENLARGE DISCOVERY LIMITS ESTABLISHED BY THE ORDER ESTABLISHING PROCEDURE furnished by electronic mail on this 24th day of March, 2017, to the following:

Walter Trierweiler
Kyesha Mapp
Danijela Janjic
Wesley Taylor
Florida Public Service Commission
2540 Shumard Oak Blvd., Room 110
Tallahassee, FL 32399-0850
Email: wtrierwe@psc.state.fl.us
Email: kmapp@pac.state.fl.us
Email: djanjic@psc.state.fl.us
Email: wtaylor@psc.state.fl.us

Martin S. Friedman, Esquire
Coenson Friedman, P.A.
766 N. Sun Drive, Suite 4030
Lake Mary, FL 32746
Email: mfriedman@coensonfriedman.com

 /s/ **Erik L. Sayler**
Erik L. Sayler
Associate Public Counsel